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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,577	07/30/2003	Ramzi F. Abulhaj	DDI-1/DIV II/USA	6468

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EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/629,577	Applicant(s) ABULHAJ ET AL.	
	Examiner Michael Thaler	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The disclosure is objected to because of the following informalities: The informalities in the specification and drawings noted in the parent applications should be corrected. Appropriate correction is required.

Claims 8-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The lancing device is not part of the claimed combination in view of the phrase "for use with a lancing device" in claim 8, lines 1-2. The body and needle cover are recited as being part of the lancing device in view of the phrase "said body and needle cover of said lancing device" in claim 8, line 3. Thus, the body and needle cover are indicated as being not part of the claimed combination. However, other portions of the claims infer that the body and needle cover are part of the claimed combination (e.g. "located within said lancing device body" in claim 8, line 10), making it unclear whether they are part of the claimed combination or not.

Claims 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (3,358,689) in view of Cloyd et al. (3,330,004). Higgins discloses needle or blade 20, needle cover 30 and plastic body 11 having diametrically opposed aligned ports 16 (Ports 16 are "diametrically opposed" since they are on

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opposite sides of the body 11. As to the term "aligned", it is noted that ports 35 of applicant's invention are aligned in two ways: First, they are aligned along the longitudinal axis of the device and second, they are aligned along an axis perpendicular to the longitudinal axis. Ports 16 of Higgins are aligned along the longitudinal axis of the device. That is, one port 16 is directly behind the other along the longitudinal axis of the device as seen in figure 3. Thus, Higgins meets the term "aligned" as broadly claimed.) revealing the body portion of the needle or blade 20. Higgins fails to disclose an anchor on the needle or blade. However, Cloyd et al. teach that a needle should have an anchor (bend 6 or 30) in order to obtain the advantage of anchoring it into its plastic supporting hub 3 to prevent inadvertent removal therefrom (col. 1, lines 27-28 and col. 2, lines 9-13). It would have been obvious to include an anchor on the Higgins needle or blade 20 to anchor it in its plastic supporting body 11 so that it too would have this advantage. As to claim 9, the Cloyd et al. anchor 30 includes a substantially perpendicular bend (from a point on the anchor 30 at the end of the lead line for reference numeral 30 to a point at the end of lead line for reference numeral 19 as shown in figure 4).

Claims 8-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,589,261 and claims 1-19 of U.S. Patent No. 6,723,111. Although the conflicting claims are not identical, they are not patentably distinct from each other because the slight difference in the wording of the claims involves only an obvious difference.

Applicant's arguments filed July 22, 2005 have been fully considered but they are not persuasive. The terminal disclaimers filed July 22, 2005 were not approved since form PTO/SB/96 is missing. Note 37 CFR 3.73(b). The Higgins and Cloyd et al. references are not from diverse non-analogous arts since both are directed to needles which puncture the skin. Also, note the reference to hypodermic needles in col. 2, lines 51-56 of Higgins.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

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expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht
11/15/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731